

REMARKS

Claim 34 is added, and therefore claims 12 to 34 are pending.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 12 to 22 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2003/0195676 (“Kelly”).

As regards the anticipation rejections of the claim, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejection, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

Claim 12 is to a computer system *in a vehicle*, including: at least two computers that perform different tasks, in which a distribution of the tasks among the at least two computers takes place according to a significance of functions for a driving of the vehicle, the functions including driving-related functions that are implemented in a first computer of the at least two computers, and non-driving-related functions that are implemented in a second computer of the at least two computers.

The Kelly reference does not identically disclose (or even suggest) “a computer system *in a vehicle*, including: at least two computers.” The Final Office Action states, “[a]s to the not teaching PC Computer 48 as part of the Kelly’s system (see Kelly’s et al. section

[0052]), note temporary or not the computer system 48 being used as part of the system, also the claim had not been specify the second computer being installed permanently in the vehicle. [sic]” Even if remote PC 48 may be considered part of the Kelly system, it is not in a vehicle. Claim 12 *does* specify that the system, including two computers, is *in a vehicle*.

The Kelly reference simply does not disclose this, and seems to indicate one computer in a vehicle and one computer *outside the vehicle*. As paragraph 52 of Kelly clearly states, “[s]oftware programming is developed *on a remote personal computer* 48 so that there is enough memory to hold the development software *that generates the software used in the system*. Computer 48 also debugs the software prior to running, as is standard procedure for these types of computers. *Temporary connection from computer 48 to computer 18 is made through cable 49* and connected at port 31 to download the program to the computer 18. Software is downloaded from computer 48 to computer 18 to change the software or a [sic] when a new program is needed.” (Kelly, para. 52) (emphasis added). Clearly, PC Computer 48 is not part of “a computer system *in a vehicle*”, in which a “distribution of the tasks among the at least two computers takes place according to a significance of functions for a driving of the vehicle”, as provided for in the context of the presently claimed subject matter.

Accordingly, claim 12 is allowable, as are its dependent claims 13 to 22.

As further regards dependent claim 20, the Kelly reference does not identically disclose (or even suggest) “a computing-intensive function of a driving-related part are computed in a non-driving-related part.” Figure 5, element 15, the odometer, is cited. It is not clear which part of claim 20 the odometer is being asserted against. Regardless, an odometer is not “a computing-intensive function,” nor “a non-driving-related part.” Thus, even if the odometer is “a driving-related part,” there is no indication that its function, which is not “computer-intensive,” is performed by any other part, let alone “in a non-driving-related part.” The features of claim 20 are wholly absent from the Kelly reference. For at least this additional reason, claim 20 is also allowable

As further regards dependent claim 21, the Kelly reference does not identically disclose (or even suggest) the feature in which “the first computer gives computing-intensive tasks to the second computer, and the first computer executes the computer-intensive tasks if the second computer is not available.” Figure 5, element 18 is asserted as the first computer, but there is simply no mention to computer 18 giving anything to the remote computer 48, let alone “computing-intensive tasks.” Computer 48 may generally indicate the performance of

some tasks considered “computing-intensive,” but there is no indication computer 18 “gives [them] to the second computer.” Also, of the tasks performed on computer 48, there is no indication that those tasks could be performed on computer 18.

Claims 23 and 33 include features like those of claim 12, and they are therefore allowable for essentially the same reasons. Claims 24 to 32 depend from claim 23, and are therefore allowable for at least the same reasons.

As further regards dependent claim 31, the Kelly reference does not identically disclose (or even suggest) the features in which “the system is configured to modify the second set of functions based on user input, wherein the system is configured to restrict modification of the driving-related functions, wherein the second processing unit is a receiving subsystem with an interface configured to interface with a plurality of equipment added to the system via the interface, wherein the second set of functions include enhancements of the driving-related functions.” No substantive rejection of these features has been given. This claim was rejected saying “see fig. 5, as noted above.” However, this claim contains features wholly separate from claim 23, and thus, the rejection of claim 23 does not address this claim. Since the Kelly reference does not identically disclose (or even suggest) any of the foregoing features of claim 31, it is allowable for these further reasons.

New claim 34 does not add any new matter and is supported by the present application, including the specification. Claim 34 includes the features of claim 33, and it is therefore allowable for at least the same reasons. Also, claim 34 further provides that the “first one of the computers is a closed system, the second one of the computers is an open system, and the open system permits a user to make changes to software or to a configuration”. These features are disclosed at lines 22 and 23 of page 1 of the Substitute Specification. Any review of the applied references makes plain that these features are not disclosed by the applied references, so that claim 34 is allowable for this further reason.

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Accordingly, claims 12 to 34 are allowable.

CONCLUSION

It is therefore respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,

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